

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO**

In re: RICE, DANIEL D
RICE, SHERLYN J

Case No. 07-31303

Debtor(s)

Judge Mary Ann Whipple

ERICKA S. PARKER, TRUSTEE
Law Offices of Ericka S. Parker LLC.
33 S. Michigan St., Suite 203
Toledo, OH 43604

Plaintiff

**COMPLAINT TO
FOR RECOVERY OF
PREFERENTIAL PAYMENTS
PURSUANT TO 11 U.S.C. §547 AND
DECLARATORY JUDGMENT
REGARDING SAME**

v.

MRS Associates Inc
3 Executive Campus
Suite 400
Cherry Hill, NJ 08002

MRS Associates Inc
c/o Immerman & Tobin Co., LPA
632 Vine Street, STE 1010
Cincinnati, OH 45202
Statutory Agent

Defendant(s)

Ericka S. Parker (0068217)
Law Offices of Ericka S. Parker LLC.
33 S. Michigan St., Suite 203
Toledo, OH 43604
(419) 243-0900
(419) 243-0955 FAX
Attorney for Plaintiff

Now comes the Plaintiff, by and through counsel, and for her cause of action states and avers as follows:

JURISDICTION AND VENUE

1. That the Debtor Daniel D. Rice and Sherlyn J. Rice filed for relief under Chapter 7 of Title 11 of the United States Code on or about 04/08/07.

2. That the Plaintiff is the duly appointed and constituted Trustee in the bankruptcy of Daniel D. Rice and Sherlyn J. Rice.

3. That the Defendant MRS Associates Inc., is a creditor listed on the Debtor's bankruptcy petition and schedules.

4. That the Defendant MRS Associates Inc., is a foreign corporation authorized to do business in the State of Ohio.

5. That this Court has jurisdiction pursuant to 28 U.S.C. §1334.

6. That this Court is the proper venue as provided in 28 U.S.C. §1409, pursuant to a general order entered whereby all cases and all proceedings arising under Title 11 or arising in or related to a case under Title 11, are referred to the bankruptcy judges for this District pursuant to the provisions of 28 U.S.C. §157(a). The within cause of action is a core proceedings as defined by 28 U.S.C. §157(b)(2)(E).

7. That the Debtor is presumed insolvent up and through 90 days prior to filing pursuant to 11 U.S.C. §547(f).

CAUSE OF ACTION

8. Plaintiff incorporates by reference the allegations contained in paragraphs 1-7.

9. That on or within the 90 days before the date of the filing of the petition, the Defendant received payments in the amount of Eight Thousand- and 00/100 Dollars (\$8,000.00) as evidenced by Exhibit "A" attached hereto (hereafter the "Preferential Payment").

10. That the Preferential Payment was made to MRS Associates Inc., on account of an antecedent debt owed by the Debtor to Defendant before said transfer was made.

11. That at the time of the Preferential Payment, the Debtor was insolvent.

12. That to allow MRS Associates Inc to retain the Preferential Payment will enable it to receive more than it would have received if the asset were administered and equally divided among the creditors similarly situated in the same class.

13. That the Trustee has demanded MRS Associates Inc return the Preferential Payment to her, but MRS Associates Inc has failed and refused to do so.

WHEREFORE, the Trustee prays for a judgment against MRS Associates Inc in the amount of Eight Thousand and 00/100 Dollars (\$8,000.00), together with interest, court costs and such other relief as may be just and equitable.

Respectfully submitted,

/s/ Ericka S. Parker

Law Offices of Ericka S. Parker LLC.

33 S. Michigan St., Suite 203

Toledo, OH 43604

(419) 243-0900

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Attorney for the Plaintiff

LaSalle Bank Midwest N.A.
Member FDIC
Member ABN AMRO Group

2600 West Big Beaver Road
Troy, Michigan 48084
Toll-free (866) 732-6555
en español (866) 732-0880
MONTHLY CLIENT UPDATE

SHERLYN J RICE
DANIEL D RICE
127 ANN MARIE DR
MONROE MI 48162-3287

Statement Date: 02/20/07
Page 2 of 3
Account Number

ATM and Point of Sale Transactions

Date	Description	Effective Dt/ Card #	Withdrawals	Deposits
02/06/07	ATM DDA WITHDRAWAL			
02/14/07	ATM DDA WITHDRAWAL			
02/16/07	ATM DDA WITHDRAWAL			
02/20/07	ATM DDA WITHDRAWAL			

Other Withdrawals and Deposits

Date	Description	Withdrawals	Deposits
01/23/07	DEPOSIT		
01/24/07	MRS Associates MRS PYMNT PAR#0240134051	8,000.00	

EXHIBIT "A"

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Ericka S. Parker	DEFENDANTS SEE ATTACHED	
ATTORNEYS (Firm Name, Address, and Telephone No.) Ericka S. Parker 33 S. Michigan, Suite 203 Toledo, OH 43604	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Complaint to Recover Preference pursuant to 11 USC 547		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>FRBP 7001(1) – Recovery of Money/Property</p> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input checked="" type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property <p>FRBP 7001(3) – Approval of Sale of Property</p> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) <p>FRBP 7001(5) – Revocation of Confirmation</p> <input type="checkbox"/> 51-Revocation of confirmation <p>FRBP 7001(6) – Dischargeability</p> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <p style="text-align: center;">(continued next column)</p> </div> <div style="width: 48%;"> <p>FRBP 7001(6) – Dischargeability (continued)</p> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce/sep property settlement/decreed <input type="checkbox"/> 65-Dischargeability - other <p>FRBP 7001(7) – Injunctive Relief</p> <input type="checkbox"/> 71-Injunctive relief – reinstatement of stay <input type="checkbox"/> 72-Injunctive relief – other <p>FRBP 7001(8) Subordination of Claim or Interest</p> <input type="checkbox"/> 81-Subordination of claim or interest <p>FRBP 7001(9) Declaratory Judgment</p> <input type="checkbox"/> 91-Declaratory judgment <p>FRBP 7001(10) Determination of Removed Action</p> <input type="checkbox"/> 01-Determination of removed claim or cause <p>Other</p> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </div> </div>		
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Daniel D. Rice and Sheryln J. Rice		BANKRUPTCY CASE NO. 07-31303
DISTRICT IN WHICH CASE IS PENDING Northern District of Ohio	DIVISIONAL OFFICE Western Division	NAME OF JUDGE Mary Ann Whipple
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE 07/25/2007	PRINT NAME OF ATTORNEY (OR PLAINTIFF) /s/Ericka S. Parker	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, if it is required by the court. In some courts, the cover sheet is not required when the adversary proceeding is filed electronically through the court's Case Management/Electronic Case Files (CM/ECF) system. (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Parties. Give the names of the parties to the adversary proceeding exactly as they appear on the complaint. Give the names and addresses of the attorneys if known.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.

Defendants

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